

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Technical Requirements to Enable)
Blocking of Video Programming based)
on Program Ratings)
)
Implementation of Section 551(c), (d))
and (e) of the Telecommunications Act of)
1996)
_____)

ET Docket No. 97-206

Reply Comments of

**CENTER FOR MEDIA EDUCATION
AMERICAN MEDICAL ASSOCIATION
AMERICAN ACADEMY OF PEDIATRICS
AMERICAN PSYCHOLOGICAL ASSOCIATION
CHILDREN NOW
CHILDREN'S DEFENSE FUND
NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
NATIONAL EDUCATION ASSOCIATION
NATIONAL PARENT TEACHER ASSOCIATION**

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December 18, 1997

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INTRODUCTION

Commenters, the Center for Media Education, American Medical Association, American Academy of Pediatrics, American Psychological Association, Children Now, Children's Defense Fund, National Association of Elementary School Principals, National Education Association, and National Parent Teacher Association ("CME, *et al.*") hereby submit Reply Comments regarding the technical requirements for the V-Chip. In their original Comments, CME, *et al.* argued that the Commission should give specific guidance on how to make the V-Chip effective and easy to use.¹ In these Reply Comments CME, *et al.* respond to the Comments of the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America ("Joint Commenters"), the Consumer Electronics Manufacturers Association ("CEMA"), and others.

CME, *et al.* believe that the Commission should set certain minimum standards to ensure that parents can control the V-Chip easily and effectively. The ability to block unrated programming should be included in these standards. However, the Commission may want to consider ways to help parents to distinguish news and sports programming from other unrated programming. In addition, because the efficacy of the industry ratings system cannot be evaluated until parents use it with the V-Chip, the Commission should encourage manufacturers to make the V-Chip flexible enough to adapt to possible modifications of the ratings system or development of additional ratings systems. Finally, CME, *et al.* are opposed to any further delay

¹See generally Comments of CME, *et al.*, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997 [hereinafter *Comments of CME, et al.*].

in the introduction of the V-Chip, and encourage the Commission to ensure that it is available to parents as soon as possible.

I. THE COMMISSION SHOULD SET MINIMUM STANDARDS FOR THE V-CHIP TO ENSURE THAT PARENTS CAN BLOCK PROGRAMMING EASILY AND EFFECTIVELY.

CEMA has expressed concern that the Commission will mandate a specific interface for use with the program blocking application.² CME, *et al.* agree with CEMA that leaving specific user interface design to the competitive marketplace may promote innovation and variety.³ However, the Congressional goal of empowering parents to limit the harmful effects of programming⁴ may not be realized by complete reliance on the competitive marketplace because the industry standard for program blocking does not address a number of issues related to control of the V-Chip by parents.⁵ Thus, the Commission should set minimum standards regarding how parents can control the V-Chip. Establishing such standards is consistent with the Commission's

²Comments of the Consumer Electronics Manufacturers Association, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997, at 15 [hereinafter *Comments of CEMA*].

³*Id.*

⁴Pub. L. No. 104-104, 111 Stat. 56 (1996); §551(a)(8).

⁵Comments of the National Association of Broadcasters, National Cable Television Association, and Motion Picture Association of America, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997, at 2-3 [hereinafter *Comments of Joint Commenters*]; *Comments of CME, et al.*, *supra* note 1, at 2.

Congressional mandate;⁶ neither the language of the Telecommunications Act nor its legislative history limits the Commission's authority to require technical features on television receivers sufficient to make them work with the industry ratings system.⁷

CME, *et al.* agree with Joint Commenters that different television sets must react to ratings consistently, and that parents should be able to display program ratings during a program through use of a display button.⁸ The V-Chip should also give parents the ability to block programming effectively using either age-based ratings, content descriptors, or both.⁹ Finally, the V-Chip should be easy to disable, yet secure enough to ensure that children cannot easily override their parents' decisions.¹⁰

II. PARENTS SHOULD BE ABLE TO BLOCK UNRATED PROGRAMMING WHILE PRESERVING ACCESS TO NEWS AND SPORTS PROGRAMMING.

Joint Commenters have proposed that the V-Chip should not be capable of blocking unrated programs.¹¹ Joint Commenters reason that since unrated programs include news and informational programming, which provide a public benefit, they should not be subject to

⁶Pub. L. No. 104-104, *supra*, at §551(d);

⁷*Comments of Joint Commenters, supra* note 5, at 4.

⁸*Id.*

⁹*Comments of CME, et al., supra* note 1, at 2-3.

¹⁰*Id.* at 4.

¹¹*Comments of Joint Commenters, supra* note 5, at 5.

blocking because of their content.¹² However, because the ratings system is voluntary, programs other than news and sports programs may not be rated.¹³ Many parents may want to prevent their children from being exposed to unrated programming, but not block news and sports. The V-Chip should enable parents to distinguish news and sports programming, which is exempt from the ratings system, from other programming that may be unrated but is not exempt from the ratings system. One solution might be to introduce an separate tag for news and sports programming. This would allow parents to block unrated programming they feel is inappropriate for their children while preserving easy access to news and sports programming.

III. THE V-CHIP SHOULD HAVE THE FLEXIBILITY TO ADAPT TO CHANGES IN THE RATINGS SYSTEM AND TO ACCOMMODATE FUTURE DEVELOPMENT OF MULTIPLE RATINGS SYSTEMS.

CME, *et al.* are very concerned that CEMA has proposed that the industry ratings system, once approved by the Commission, cannot be altered or changed.¹⁴ Until the industry ratings system is given an opportunity to work with the V-Chip, evaluating its effectiveness will be impossible. As Joint Commenters acknowledged in their comments, experience with the V-Chip may show the need for refinements to the industry ratings system.¹⁵ For the V-Chip to be

¹²*Id.* at 5.

¹³For example, BET has refused to rate any of its programming. *Backers Say TV Ratings Provide 'Precisely' What Congress Intended*, COMMUNICATIONS DAILY, October 8, 1997, at 4.

¹⁴*Comments of CEMA, supra* note 2, at 13.

¹⁵*Comments of Joint Commenters, supra* note 5, at 9.

effective, it should have the flexibility to adapt to any necessary changes in the approved ratings system.

CEMA and Joint Commenters have also proposed that the Commission should not mandate the inclusion of multiple ratings systems in the V-Chip.¹⁶ Although CME, *et al.* agree that the Commission should not *mandate* the inclusion of multiple ratings systems in the V-Chip, the Commission should facilitate the development of multiple ratings systems by encouraging manufacturers to make the V-Chip as flexible and adaptable to new systems as possible. Several commenters proposed alternatives to the industry ratings system.¹⁷ Although CME, *et al.* do not necessarily endorse these alternative ratings systems, the development of these and other systems could empower parents to make more effective program choices for their children by allowing parents to choose the ratings system that best meets their needs.

¹⁶*Comments of CEMA, supra* note 2, at 12; *Comments of Joint Commenters, supra* note 5, at 8.

¹⁷For example, Wilson, Sonsini, Goodrich & Rosati filed comments on behalf of clients who were developing alternate means of program blocking, such as blocking programs by scene instead of blocking entire programs. *See, e.g.,* Comments of Wilson, Sonsini, Goodrich & Rosati, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997. OKTV proposed an independent ratings system, and said that independent rating services must have access to line 21 of the VBI. *See, e.g.,* Comments of OKTV, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997. Tim Collings has proposed a "positive" ratings system to give positive ratings to educational material. *See, e.g.,* Comments of Tim Collings *et al.*, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997. PBS also supports positive ratings. *See, e.g.,* Comments of PBS, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997.

CEMA and television manufacturers such as Thomson Consumer Electronics, Inc. (“Thomson”) and Philips Electronics North America Corporation (“Philips”) have expressed concern that accommodating ratings systems developed in the future, or future revisions to the industry ratings system, will render obsolete any V-Chips programmed before the modifications.¹⁸ However, they do not fully explain why an improved ratings system cannot coexist with the current industry ratings system. As Matsushita Electric Corporation of America (“MECA”) notes, when color televisions were introduced, they did not render obsolete black and white televisions; consumers who purchased new televisions could take advantage of the superior technology, while those who did not buy new televisions were still able to view programs in black and white.¹⁹ MECA refers to this as “backward compatibility,” which ensures that televisions purchased before the adoption of a new standard continue to work after the new standard is implemented.²⁰ As long as the industry ensures backward capability, if future modifications need to be made to the industry ratings system, or if alternate ratings are developed which allow parents to choose from multiple ratings systems, parents who do not buy new televisions should still be able to block programming using the older ratings system.

¹⁸*Comments of CEMA, supra* note 2, at 13; Comments of Thomson Consumer Electronics, Inc., *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997, at 18 [hereinafter *Comments of Thomson*]; Comments of Philips Electronics North America Corporation, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997, at 7 [hereinafter *Comments of Philips*].

¹⁹Comments of Matsushita Electric Corporation of America, *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings*, ET Docket No. 97-206, filed November 24, 1997, at 10 [hereinafter *Comments of MECA*].

²⁰*Id.*

IV. THE COMMISSION SHOULD ENSURE THAT PROGRAM BLOCKING TECHNOLOGY IS AVAILABLE AS SOON AS POSSIBLE.

CME, *et al.* agree with CEMA that the Commission's swift action in this proceeding and the related ratings proceeding in CS Docket No. 97-55²¹ will help ensure that parents receive access to blocking technology quickly.²² CME, *et al.* encourage the Commission to issue its final rules in both proceedings as soon as possible.

However, CME, *et al.* oppose the request of CEMA and television manufacturers such as Philips, Thomson, and MECA that the Commission delay the proposed timetable for introduction of the V-Chip until at least eighteen months after the Commission has accepted a ratings system.²³ Manufacturers should not require so much time to bring the V-Chip to market; according to some V-Chip manufacturers, television manufacturers should be able to include the V-Chip in new televisions in less than seven months.²⁴

²¹See Public Notice, *Commission Seeks Comment on Revised Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, FCC 97-321, Report No. CS 97-25 (September 9, 1997).

²²*Comments of CEMA, supra* note 2, at 4.

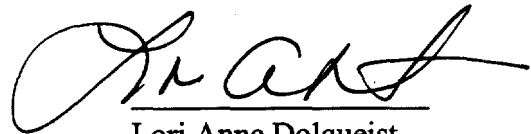
²³*Comments of CEMA, supra* note 2, at 8; *Comments of Philips, supra* note 18, at 12; *Comments of Thomson, supra* note 18, at 6; *Comments of MECA, supra* note 19, at 7.

²⁴Paige Albinia, *It Takes Time to Make a Safe TV*, BROADCASTING & CABLE, December 1, 1997, at 18.

CONCLUSION

Congress gave the Commission an oversight role in the adoption of industry standards to ensure that it realizes the compelling governmental interest of empowering parents through program blocking technology. To achieve Congress' goal, the Commission should give specific guidance to the industry, including minimum standards, to make the V-Chip easy for parents to use. The V-Chip should have the flexibility to adapt to any necessary changes to the industry ratings system and to accommodate multiple ratings systems to ensure that the V-Chip continues to be effective. Finally, the Commission should encourage manufacturers to implement program blocking as soon as possible, so parents will have the opportunity to use the V-Chip to make effective program choices for their children.

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